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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
SANTA ANA

BY

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE BANK OF NEW YORK MELLON,
etc.,

Plaintiff,

vs.

MARIA GALLARDO, et al.,

Defendants.

CASE NO. CV 12-6864 UA (DUTYx)

ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION

The Court will remand this unlawful detainer action to state court summarily because Defendant removed it improperly.

On March 28, 2012, Defendant Maria Gallardo, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice of Removal of that action to this Court and also presented an application to proceed *in forma pauperis*. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

Simply stated, Plaintiff could not have brought this action in federal court in the first place, in that Defendant does not competently allege facts supplying either diversity or federal-question jurisdiction, and therefore removal is improper. 28 U.S.C. § 1441(a); see *Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546, 563, 125 S. Ct. 2611, 162 L. Ed.

1 2d 502 (2005). Even if complete diversity of citizenship exists, the amount in controversy
2 does not exceed the diversity-jurisdiction threshold of \$75,000. *See* 28 U.S.C.
3 §§ 1332, 1441(b). On the contrary, the unlawful-detainer complaint recites that the
4 amount in controversy does not exceed \$10,000.

5 Nor does Plaintiff's unlawful detainer action raise any federal legal question. *See*
6 28 U.S.C. §§ 1331, 1441(b).

7 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the Superior
8 Court of California, County of Los Angeles, Long Beach Courthouse, 415 West Ocean
9 Boulevard, Long Beach, CA 90802, for lack of subject matter jurisdiction pursuant to 28
10 U.S.C. § 1447(c); (2) the Clerk send a certified copy of this Order to the state court; and
11 (3) the Clerk serve copies of this Order on the parties.

12 IT IS SO ORDERED.

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14 DATED: 8/21/2012

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19 AUDREY B. COLLINS
20 CHIEF UNITED STATES DISTRICT JUDGE
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